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REMARKS

Claims 45-65 were pending in the subject application. By this Amendment, Claim 46 has been canceled without prejudice or disclaimer, and Claims 45 and 47 have been amended. Applicants maintain that the amendments do not raise an issue of new matter. Support for amendments to Claims 45 and 47 can be found in the application at least on page 59, line 4 - page 60, line 18, and page 63, line 5 - page 64, line 5, and Figures 9 and 10. Accordingly, entry of the amendments is respectfully requested.

Obviousness-type Double Patenting Rejections based on U.S. Patent 6,875,327

Claims 45-47 and 49 are rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claim 14 of U.S. Patent No. 6,875,327.

Claim 48 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 13 and 14 of U.S. Patent No. 6,875,327.

Claim 51 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 3, 13 and 14 of U.S. Patent No. 6,875,327.

Claim 52 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 4 and 14 of U.S. Patent No. 6,875,327.

Claim 53 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 5 and 14 of U.S. Patent No. 6,875,327.

Claim 54 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 6 and 14 of U.S. Patent No.

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6,875,327.

Claim 55 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 7 and 14 of U.S. Patent No. 6,875,327.

Claim 56 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 8 and 14 of U.S. Patent No. 6,875,327.

Claim 57 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 9 and 14 of U.S. Patent No. 6,875,327.

Claim 58 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 10 and 14 of U.S. Patent No. 6,875,327.

Claim 59 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 11 and 14 of U.S. Patent No. 6,875,327.

Claim 60 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 10, 12, 14 and 15 of U.S. Patent No. 6,875,327.

Claim 61 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 10, 12 and 14-16 of U.S. Patent No. 6,875,327.

Claim 62 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 14 and 18 of U.S. Patent No. 6,875,327.

Claim 63 is rejected on the ground of nonstatutory obviousness-type double

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patenting as allegedly being unpatentable over Claims 14 and 19 of U.S. Patent No. 6,875,327.

Claim 64 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 14 and 20 of U.S. Patent No. 6,875,327.

Claim 65 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 14 and 21 of U.S. Patent No. 6,875,327.

Applicants attach hereto a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) in order to remove the double patenting rejections over U.S. Patent No. 6,875,327. The fee for submitting a Terminal Disclaimer is \$140.00, and a check including this amount is enclosed. In view of the Terminal Disclaimer attached hereto, applicants respectfully request withdrawal of these double patenting rejections.

Obviousness-type Double Patenting Rejections based on co-pending U.S. Patent Application No. 10/809,217

Claims 45-47 and 58 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claim 59 of co-pending U.S. Patent Application No. 10/809,217.

Claim 48 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 57 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 49 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 47 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 50 is provisionally rejected on the ground of nonstatutory obviousness-type

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double patenting as allegedly being unpatentable over Claims 48 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 51 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 49 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 52 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 50 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 53 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 47, 51 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 54 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 47, 52 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 55 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 53 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 56 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 54 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 57 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 55 and 59 of co-pending U.S. Patent Application 10/809,217.

Claim 59 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 46 and 59 of co-pending U.S. Patent Application 10/809,217.

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Claim 60 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 59 and 60 of co-pending U.S. Patent Application 10/809,217.

Claim 61 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 59 and 61 of co-pending U.S. Patent Application 10/809,217.

Claim 62 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 59 and 62 of co-pending U.S. Patent Application 10/809,217.

Claim 63 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 59 and 63 of co-pending U.S. Patent Application 10/809,217.

Claim 64 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 59 and 64 of co-pending U.S. Patent Application 10/809,217.

Claim 65 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over Claims 59 and 65 of co-pending U.S. Patent Application 10/809,217.

Applicants attach hereto a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) in order to remove the double patenting rejections over co-pending U.S. Patent Application 10/809,217. The fee for submitting a Terminal Disclaimer is \$140.00, and a check including this amount is enclosed. In view of the Terminal Disclaimer attached hereto, applicants respectfully request withdrawal of these double patenting rejections.

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Rejections under 35 U.S.C. §103(a)

Claims 45-48, 51, 55-60 and 62-65 are rejected as being unpatentable over Winarta et al. (US Patent No. 6,287,451) ("Winarta") in view of Kawanaka et al. (U.S. Patent No. 6,599,406) ("Kawanaka").

Claims 49, 53 and 54 are rejected as being unpatentable over Winarta in view of Kawanaka and further in view of Ikeda et al. (U.S. Patent No. 5,582,697).

Claim 61 is rejected as being unpatentable over Winarta in view of Kawanaka and further in view of Fujiwara et al. (U.S. Patent No. 6,004,441).

Amended Claims 45 end 47 are characterized in that each of the electrode parts provided on the biosensor comprises measuring parts (71-73 in figures 9 and 10) for outputting electrical changes resulting from a reaction between the sample liquid and the reagent layer; and correction parts (57-59 in figures 9 and 10) having information of correction data which corresponds to the output characteristics of the biosensor. The type of the biosensor can be discriminated by whether the second type of slit (64a-64c in figure 9) is formed or not between the measuring part and the correction part. That is, the measuring parts themselves are used as electrodes for discrimination of the type of biosensor.

According to the inventions of amended Clams 45 and 47, since the measuring parts which are naturally needed in the construction of a biosensor are also used as electrodes for discrimination of the type of biosensor, it is possible to make the biosensor have much information without enlarging the construction of the biosensor. Thus, it is possible to provide a biosensor without making a measuring device rendering the biosensor complicated.

In contrast, the invention of Kawanaka comprises electrodes for discriminating the type of the biosensor aside from measuring parts and counter parts, and discriminates the type of the biosensor which is inserted into the measuring device on the basis of

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conduction or non-conduction between electrodes for discrimination of the type of the biosensor. Thus, as the types of the biosensor to be discriminated increase, the area of the electrodes for discriminating the type of the biosensors should be increased, thereby necessarily increasing the area of the biosensor. Further, the construction of the measuring device employing a biosensor is naturally complicated.

Winarta and Kawanaka neither disclose nor suggest the features of amended Claims 45 and 47. Applicants maintain that amended Claims 45 and 47 are not obvious over Winarta in view of Kawanaka. Also, claims 48-65 which depend from amended claims 45 and 47 are not obvious over Kawanaka, Winarta, Ikeda and Fujiwara.

Reconsideration and withdrawal of these rejections are respectfully requested.

Supplemental Information Disclosure Statement

This Information Disclosure Statement is being filed to supplement the Information Disclosure Statements filed on March 25, 2004, April 16, 2007, August 15, 2008 and October 14, 2008 in connection with the above-identified application.

In accordance with the duty of disclosure under 37 C.F.R. §1.56, applicants would like to direct the Examiner's attention to the references that are listed on the attached form PTO/SB/08A.

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CONCLUSIONS


In view of the amendments and remarks made hereinabove, reconsideration and withdrawal of the rejections in the October 17, 2008 Office Action and passage of the pending claims to allowance are respectfully requested. If there is any minor matter preventing the allowance of the subject application, the Examiner is requested to telephone the undersigned attorney.

A check for \$590.00 is enclosed for the \$130.00 fee for a one month extension of time, the \$180.00 fee for submitting an Information Disclosure Statement, and the \$280.00 fee for submitting two Terminal Disclaimers (\$140.00 each). No other fee is deemed necessary in connection with the submission of this reply. However, if an additional fee is required in connection with this submission or to maintain the pendency of the subject application, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785. Overpayments may be credited to Deposit Account No. 01-1785.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Applicants
90 Park Avenue
New York, New York 10016
(212) 336-8000

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New York, New York

By 
Alan D. Miller, Reg. No. 42,889